

**REMARKS/ARGUMENTS**

**1. The office action stated:**

"Claims 7 and 8 recite the limitation "the relative humidity of the environment" in line 2. There is insufficient antecedent basis for this limitation in the claim."

Claims 7 and 8 have been rewritten (as new claims 27 and 28) to recite the limitation "the relative humidity in the preparation area" for which antecedent basis is found in claim 1 and also in the specification.

**2. The office action stated:**

"No antecedent basis is seen in claim 13c, for "the sliced mixture"."

A new step 13c has been inserted before old step 13c (which now becomes step 33d) in order to provide the step of "(c) slicing the dehydrating mixture after a specified period of time;" thus providing antecedent basis for "the sliced mixture" of old step 13c (now step 33d).

**3. The office action stated:**

"No basis is seen in claim 14 for the phrase "reducing the relative humidity of the area" in claim 13."

Claims 14 has been rewritten (as new claim 34) to recite the limitation "reducing the relative humidity of the preparation area" for which antecedent basis is found in claim 1 and also in the specification.

**4. The office action stated:**

"No period is seen at the end of claims 15 and 17."

Applicant thanks the examiner for bringing this oversight to his attention. Periods have been supplied for both these claims (new claims 35 and 37).

**5. The office action stated:**

"No antecedent basis is seen in claim 17 for the phrase "after

said specified time".

Claim 17 has be rewritten (as new claim 37) to recite "The method of claim 13 wherein the end of the specified period of time is when the batter on the double-access drying surface has set until it is firm enough to be sliced and lifted off said double-access drying surface without breaking." Claim 13 as rewritten now provides antecedent basis for "after said specified time". Further rewritten Claim 13 now provides proper antecedent basis for "the sliced mixture of Claim 18.

**6. The office action stated:**

"In claim 20, the phrase in step "a" of "0.7 of less than 0.75" is not understood. The phrase could read of "0.7, but less than 0.75".

Claim 20 has been rewritten as new Claim 40 to remove the phrase "of less than 0.75".

**7. The office action stated:**

"Claims 1-4, 7, 8, 10, 12-15, 17, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gralak (4,006,255) and Burkwall, Jr. (3,974,296).

Gralak discloses a process of treating grits with a gum which can be from chia seeds, heating the mixture, and drying the mixture on a drum drier, then comminuting the cooked dried sheet, and blending with a protein flavoring (abstract and col. 2, lines 15-20). Grits are known to be very small and less than 1/2 inch in size as in step (a). The food (grits) is mixed with water, a gum capable of rehydration, and vitamins and antioxidants as in step b and then the mixture is heated and dried as in steps c and d. Burkwall, Jr. discloses a process of making a pet food by combining egg solids and other ingredients with an edible water absorbing hydrocolloid which can be chia seed gum, and vegetable material and processing it so that it will have a particular pH and water activity (abstract, and col. 4, lines 35-45). Egg solids are seen to be smaller than 1/2 inch as in step a. The mixture is hydrated using water as in step b and an agglutinate such as chia gum is used as in step c and the water activity is from .70 to .90 (col. 7, lines 20-26 and lines 45-65). The above mixtures are seen to have been agglutinated because gum from the

claimed Chia seed is used and since it is a polysaccharide, it performs a gelling type function such as agglutination. Claims 1 and 2 differ from the references in the use of whole chia seed. However as the active ingredient has been disclosed, it would have been a matter of choice as to use whole chia seeds, which of course contain roughage in the seed coat. Therefore, it would have been obvious to make a product using the process of the above references."

Applicant has rewritten Claim 1 (as new Claim 21) to distinguish over both Galak and Burkwall, Jr. by adding the limitation to claim 1 that applicant's method is "a method of agglutinating a raw food" and additionally that in step 1b the food is to be mixed "with an amount of a liquid comprising water, said liquid having a temperature of less than 48 C" thus making applicant's product a true raw food, preserving all the food's inherent enzymatic activity, which does not require either preservatives or a high temperature to produce a shelf-stable product. Due to possible microbial activity if either Galak or Burkwall, Jr. had failed to cook their products, both Galak and Burkwall, Jr. are forced to heat their products to high temperatures (thus destroying all valuable enzymes) to prevent such microbial activity. Neither Galak nor Burkwall Jr. disclose methods to produce a raw food with its valuable enzymatic activity. Thus applicant submits that with his amendment of claim 1, claim 1 and all claims depending therefrom are distinguishable over the background art. If one should aver that the methods of Galak and/or Burkwall Jr can be used to produce applicant's raw shelf-stable food product (as claimed in his newly rewritten Claim 1), applicant requests that the steps of such method be presented, said steps not involving the use of temperatures exceeding 48 C.

**8. The office action stated:**

"Claim 3 further requires spreading the agglutinated mixture onto a double access-drying surface. Such a surface is disclosed by Galak who uses an internally heated rotating double drum drier (col. 6, lines 67-68 and col. 7, lines 1-5). Therefore, it would have been obvious to dry on such a surface as disclosed by Galak."

Galak uses an internally heated rotating double drum drier (col. 6, lines 67-68 and col. 7, lines 1-5). Applicant respectfully submits that in Col. 3, line 68 through Col. 4,

lines 1-2, Gralak states that a good example of such a double drum drier is disclosed in U.S. Pat. No 3,478,439 (included with this amendment). This drum drier has solid drying surfaces as can be seen in that patent's Figures 1-9, not perforated surfaces (i.e., double access ones), as are used in applicant's invention. Quoting from page 19 of applicant's application:

"Cracker's made by the methods of this invention rely heavily on this most unusual property of chia seed—after all other ingredients have been thoroughly stirred together in a fairly thin easy-to-stir slurry, whole chia seed is added to quickly thicken the batter to such an extent that it can now be spread on dehydrator screens rather than on dehydrator solid sheets, thus resulting in large quantities of a nutritious product with large energy savings. (Suitable screen material would have a hole size of about 0.12 inches by 0.14 inches, and a strand thickness of about 0.05 inches. The screen material provides a perforated surface which gives drying air access to the lower drying surface of the cracker batter.) The type of drying surface provided by a supported screen, mesh, perforated surface or other functionally equivalent surface which gives drying air access to both the upper and lower surfaces of the drying batter simultaneously shall be called a "double-access drying surface". The upper surface of the double-access drying surface which contacts the lower surface of the drying batter shall be referred to as "the upper surface of the double-access drying surface"."

**9. The office action stated:**

"Claim 10 further requires allowing the chia seeds to absorb liquid. Even though chia seed are not disclosed, the active ingredient in the seeds, which is the gum, has been disclosed and gums are known for their ability to absorb liquid in order to produce their gelling characteristics. Therefore, it would have been obvious to allow the chia gum to absorb liquid, which is its known function."

The chia seeds are allowed to absorb liquid for two reasons:  
1) So that the batter become sufficiently thick that it not drip through the holes of the perforated screens on which the batter is to be spread.  
2) To quickly remove water from the batter thus inhibiting microbial activity.

Neither of these reasons is required by either Gralak or Burkwell, Jr. since their inventions cook the batter to inhibit



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microbial activity, and neither Gralak nor Burkwell Jr dries the batter on a double access drying surface as in applicant's invention.

10. The undersigned Applicant has made a diligent effort to amend the claims of this application so that they more particularly point out and distinctly claim the subject matter which Applicant regards as his invention. If, for any reason the claims of this application are not believed to be in full condition for allowance, Applicant respectfully requests the constructive assistance and suggestions of the Examiner in further modifying the claims herein or in making constructive suggestions pursuant to MPEP 706.03d in order that this application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

*Michael Fitzpatrick*

Michael Fitzpatrick  
Applicant Pro Se

328 Fenimore Avenue, P.O. Box 178  
Uniondale, New York 11553  
Telephone No. (516) 414-7930  
(516) 538-1239 (answering machine)

Attachments

Patent 3,478,439 by R.G. Hyldon

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: "Mail Stop Non-Fee Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450", on March 23, 2004.

(Date of Deposit)

Michael Fitzpatrick

(Name of person mailing documents)

*Michael Fitzpatrick*

(Signature of person mailing documents)

Date of Signature: March 23, 2004